

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

NATHANIEL H. HELLER

Claim No. CU-3561

Decision No. CU-1263

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on February 14, 1968.
No oral hearing requested.

Hearing on the record held on September 30, 1971.

FINAL DECISION

Under date of February 14, 1968, this claim was denied for lack of proof. Subsequently, claimant objected and submitted additional evidence in support of the claim.

Upon consideration of claimant's objections and the supporting evidence, in light of the entire record, the Commission now finds that claimant owned a house and lot at Mulgoba, Havana, Cuba. The Commission further finds that said improved real property was taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

On the basis of the entire record, the Commission further finds that claimant's valuation of the house and lot is fair and reasonable. Accordingly, the Commission finds that the value of the house and lot on October 14, 1960, the date of loss, was \$15,612.35.

The Commission finds that claimant owned certain furniture and furnishings maintained at his apartment at 312 Calle 110, Marianao, Havana, Cuba. The Commission further finds that the said personal property was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The record shows that claimant's apartment had been newly furnished at the time of loss. The Commission therefore finds that claimant's valuation is fair and reasonable. Accordingly, the Commission finds that the value of claimant's personal property on December 6, 1961, the date of loss, was \$8,050.00.

On the basis of the entire record, including the record in the Claim of Natalie Anne de Berly, (Claim No. CU-2904), the Commission finds that the Lafayette School, a Cuban entity, owed claimant a debt of \$12,000.00 on June 6, 1961 when the school was taken by the Government of Cuba. The Commission therefore finds that claimant sustained a loss of \$12,000.00 on June 6, 1961 within the meaning of Title V of the Act. (See Claim of Kramer, Marx, Greenlee & Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

Claimant's losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
House and lot	October 14, 1960	\$15,612.35
Personal property at apartment	December 6, 1961	8,050.00
Debt due from Lafayette School	June 6, 1961	<u>12,000.00</u>
	Total	<u>\$35,662.35</u>

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
October 14, 1960	\$15,612.35
June 6, 1961	12,000.00
December 6, 1961	<u>8,050.00</u>
Total	<u>\$35,662.35</u>

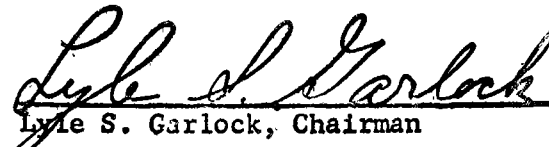
Accordingly, the following Certification of Loss will be entered, and in all other respects the Proposed Decision as amended herein is affirmed.

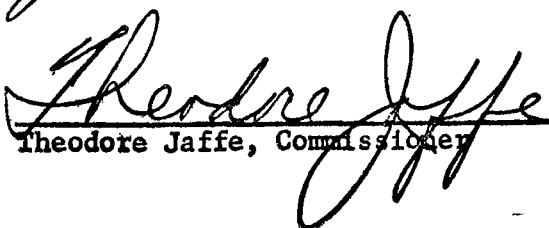
CERTIFICATION OF LOSS

The Commission certifies that NATHANIEL H. HELLER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-Five Thousand Six Hundred Sixty-Two Dollars and Thirty-Five Cents (\$35,662.35) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

SEP 30 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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OF THE UNITED STATES
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IN THE MATTER OF THE CLAIM OF

NATHANIEL H. HELLER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3561

Decision No. CU 1263

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$45,028.45, was presented by NATHANIEL H. HELLER and is based upon the asserted loss of improved real property, household furnishings and an unsecured mortgage. Claimant has been a national of the United States since his birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Other than what is purported to be an English translation of a property tax record and a receipt for the execution of a deed, claimant has submitted no documentary evidence in support of his claim. By Commission letter of August 7, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act.

On October 10, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish his ownership of rights and interests in property having a particular value which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

FEB 14 1968

Edward S. Ke

Edward S. Ke, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(a) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU-3561